IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13838 of 2004

Between:

1. Gopathi Manikyam, s/o late Mallaiah,
   Fire Station, Sangareddy, r/o H.No.1-3-14, Hanmannagar,
   Sangareddy Medak District.

2. Kalidindi Neeladri Raju, s/o late Ramakrishnam Raju,
   r/o H.No.230/2RT, Vijayanagar Colony, Hyderabad.
   (Petitioner No.2 is a formal party)

...PETITIONERS

AND

1. The Joint Sub-Registrar-I, Registration Office (O.B),
   Registration & Stamps Department, Sangareddy, Medak District.

2. The Revenue Divisional Officer, o/o The Revenue Divisional Officer,
   Sangareddy, Medak District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ, more particularly one in the nature of writ of mandamus declaring letter No.A.3/3202/2000 dated 14.09.2003 of the 2nd respondent in directing the 1st respondent not to entertain any sale transactions in respect of survey No.217 of the extent of Ac.24-32 gts., situated at Kulabgoor village till further orders from his office and the action of the 1st respondent taken pursuant thereto in not registering the document presented for registration, being arbitrary and illegal, is unjust, unfair and unreasonable and discriminatory and violative of Articles 14 and 21 of the Constitution of India and issue a consequential direction to the 1st

respondent to register sale deed presented on 29.07.2004 without reference to the impugned letter dated 14.09.2003 issued by the 2nd respondent.

Counsel for the Petitioners: MR.S.UDAYACHALA RAO & MUJIB KUMAR S.

Counsel for the Respondents: GP FOR REVENUE

WRIT PETITION NO.13843 of 2004

Between:

1. Gopathi Srinivas S/o Late Mallaiah,
   R/o H. No. 1-3-15/5, Hanmannagar, Sangareddy Medak District.

2. Sri Kalidindi Mohan Narasimha Umesh Varma S/o K. Neeladri Raju
   R/o 230/2RT, Vijayanagar Colony, Hyderabad-57, Permanent R/o.Polamuru Village, Penumantra Mandal, West Godavari District.

...PETITIONERS

AND

1. The Joint Sub-Registrar-I, Registration Office (OB), Registration & Stamps Department Sangareddy, Medak District.

2. The Revenue Divisional Officer, O/o The Revenue Divisional Officer, Sangareddy, Medak District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ, more particularly one in the nature of Writ of mandamus declaring letter No. A.3/3202/2000 dated 14.09.2003 of the 2nd respondent directing the 1st respondent not to entertain any sale transactions in respect of Survey No. 217 of the extent of Ac. 24-32 gts situated at Kulabgoor Village till further orders from his office and the action of the 1st respondent taken pursuant thereto in not registering the document presented for registration, being arbitrary and illegal, is unjust, unfair and unreasonable and discriminatory and violative of Articles 14 and 21 of the Constitution of India and issue a consequential direction to the 1st respondent to register sale-deed presented on 29.07.2004 without reference to the impugned letter dated 14.09.2003 issued by the 2nd respondent.

Counsel for the Petitioners: MR.S.UDAYACHALA RAO & MUJIB KUMAR S.

Counsel for the Respondent: GP FOR REVENUE.

WRIT PETITION NO.13848 of 2004

Between:

1. Goptathi Anjaiah, S/o. Late Mallaiah,
R/o. H.No. 1-3-136/1, Hanumannagar, Sangareddy, Sanagareddy Mandal, Medak District.
2. Sri Kalidindi Rayapa Raju, S/o. Kalidindi Ranga Raju,
R/o. Flat No.206, Sagar Apartments, Raj Bhavan Road, Somajiguda, Hyderabad, Permanent resident of Polamuru Village, Penumantra Mandal, West Godavari District. (The 2nd Petitioner is a formal Party)

...PETITIONERS

AND

1. The Joint Sub-Registrar-I, Registration Office (O.B.), Registration & Stamps Department Sangareddy, Medak District.

2. The Revenue Divisional Officer, O/o. The Revenue Divisional Officer, SangaReddy, Medak District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ, more particularly one in the nature of writ of mandamus declaring letter No.A.3/3202/2000 dated 14.09.2003 of the 2nd respondent in directing the 1st respondent not to entertain any sale transactions in respect of survey No.217 of the extent of Ac.24-32 gts., situated at Kulabgoor village till further orders from his office and the action of the 1st respondent taken pursuant thereto in not registering the document presented for registration, being arbitrary and illegal, is unjust, unfair and unreasonable and discriminatory and violative of Articles 14 and 21 of the Constitution of India and issue a consequential direction to the 1st respondent to register sale deed presented on 29.07.2004 without reference to the impugned letter dated 14.09.2003 issued by the 2nd respondent.

Counsel for the Petitioners: MR.S.UDAYACHALA RAO & MUJIB KUMAR S.

Counsel for the Respondents: GP FOR REVENUE

The Court at the admission stage made the following:

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ORDER:

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This common order shall dispose of the three Writ Petitions as they arise out of same set of background facts. The petitioner No.1 in all the three Writ Petitions are brothers and are sons of one Gopathi Mallaiah. They claim that in the year 1954, their father Mallaiah purchased land of an extent of Acs.24.32 gts in Survey No.217 of Kulabgoor Village in Sangareddy Revenue Mandal of Medak District in a public auction held for recovery of arrears of excise from one Kalal Manaiah. The name of their father was also entered in Revenue records duly transferring the title in favour of him. After the death of Gopathi Mallaiah in the year 2000, the brothers were jointly cultivating the land and in February 2003 they partitioned the property. Each of them got about Acs.8.10 gts. After partition, the petitioners entered into an agreement to sell the property, which fell to the respective share of the second petitioner (a different person in each Writ Petition). The petitioners alleged that they received entire sale consideration and delivered possession to the vendee. When they presented the duly stamped registered sale deeds before the first respondent on 29.07.2004, the first respondent refused to register the same purporting to rely on a communication from the second respondent, dated 14.09.2003. Therefore, the petitioners invoked the jurisdiction of this Court seeking a Writ of Mandamus directing the first respondent to register the three sale deeds presented on 29.07.2004. They have also challenged the communication, dated 14.09.2003 of the second respondent to the first respondent.

The impugned communication reads as under.

GOVERNMENT OF ANDHRA PRADESH

OFFICE OF THE REVENUE DIVISIONAL OFFICER, SANGAREDDY

NO.A/3/3202/2000 Dated 14.09.2003

To

The Joint Sub-Registrar,

Sangareddy.

Sir,

Sub:- ROR-Appeal-Sangareddy Mandal-Kulabgoor (V(-Sy.No.217 Extent 24.32 gts-Representation of Sri Erra Krishna and Others sons of Sri Late Kalal Manaiah R/o.Kulabgoor (V) Request for stopping of Registration-Reg.

It is to inform you that there is a R.O.R. appeal case is reserved for orders in this office and in the mean while today Sri Erra Krishna and his brothers all sons of Sri Late Kalal Manaiah R/o. Kulabgoor (V) have approached this office and alleged that the legal heirs of the Respondent Sri Gopathi Mallaiah R/o. Sanga Reddy are trying to sell away the lands in Sy.No.217 Extent 24.32 gts situated at Kulabgoor (V) of Sangareddy Mandal. Their request for stopping the Registration till the case is disposed off by the Revenue Divisional Officer, Sangareddy.

In view of the representation made by the appellants I request you not to entertain any sale transactions in respect of Sy.No.217 Extent 24.32 gts situated at Kulabgoor (V) till further orders from this office.

Yours faithfully,

Sd/-Revenue Divisional officer,

Sangareddy.

The reading of the above order would show that the sons of Kalal Manaiah filed proceedings before the second respondent aggrieved by the action of the Mandal Revenue Officer in issuing pattadar pass books to the father of the petitioners. As the same was pending before the second respondent, the first respondent was requested not to entertain any sales transaction in relation to the land in Survey No.217 which the petitioners claimed. When the matters came up before this court on 06.08.2004, learned Assistant Government Pleader for Revenue (General) was directed to get instructions in the matter.

Today the learned Assistant Government Pleader for Revenue submits that when the appeal preferred by the sons of late Kalal Manaiah was still pending, on a complaint made by the appellants therein to the effect that the property in Survey No.217 is being sold, the second respondent requested the first respondent not to entertain any sales transaction in respect of land in Survey No.217. He submits that such a course of action is mandatory having regard to the provisions of Section 6-D of A.P. Rights in Land & Pattadar Pass Books Act, 1971 ('the Act' for brevity), which reads as under.

6-D. Registering authority to make entries in the Pass Book:-

1. It shall be obligatory on the part of any person having interest or right in land to produce the title deed and pass book before the registering authority appointed, under the Registration act, 1908 along with the documents he proposes to get registered and it shall be obligatory on the part of such registering authority to make entry of every

transaction of sale, gift, purchase, mortgage, lease or exchange in such title deed and pass book at the appropriate place, or places under his signature and official seal.

2. Not withstanding anything contained in the Registration act, 1908, the registering authority shall not register any document relating to a transaction of the nature referred to in sub-section (1) without the production of the title deed and pass book by both the parties to the transaction:

Provided that in the case of a landless person including a tenant or a mortgagee who becomes owner of land for the first time by purchase of land through a registered sale deed, the registering authority shall obtain a declaration from him in the form prescribed and send the same to Mandal Revenue Officer to enable him to issue a pattadar pass book in the owner category to such purchaser in the manner prescribed.

A reading of sub-section (2) of Section 6-D of the Act would show that a Registering authority shall not register any documents unless a title deed and pass book are produced before the authority. When the title deed and pass book, allegedly issued to the father of the petitioners by the Mandal Revenue Officer, are in question before revenue authorities, there is every justification for the authorities under the Act to inform the Registering authority with a request not to entertain sale transaction. If the same is not done, the matters may get complicated in the sense that there is possibility of rival claimant claiming rights for the pattadar pass books and title deeds. Therefore, I do not see any infirmity in the action of the second respondent in requesting the first respondent not to entertain any sale transaction in relation to the land in Survey No.217 in Kulabgoor village. It is also brought to my notice by the learned Assistant Government Pleader that appeal of rival claimants has already been disposed of by the Revenue Divisional Officer and a revision is preferred before the Joint Collector. Therefore it will be in the interests of justice to direct the Joint Collector, Sangareddy to dispose of the revision within a period of four (4) weeks from the date of receipt of a copy of this order. It shall be open to the petitioners herein to approach the Joint Collector with a copy of this order.

The Writ Petitions, with the above observations, are disposed of.

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(V.V.S.RAO, J)

9th August 2004

NOTE:CC by 16.08.2004

B/O

RRB

Copy To:

1. The Joint Sub-Registrar-I, Registration Office (OB), Registration & Stamps Department Sangareddy, Medak District.

2. The Revenue Divisional Officer, O/o The Revenue Divisional Officer, Sangareddy, Medak District.

3. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT)

4. Two CD copies.